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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA DIVISION

a

MARCOS ZAVALA  
Alien No. 205-568-948

DOCKET NO.13-cv-2449; SEC. P

VERSUS

JUDGE DEE D. DRELL

ERIC HOLDER, ET AL.

MAGISTRATE JUDGE JAMES D. KIRK

REPORT AND RECOMMENDATION

Before the Court is a petition for writ of *habeas corpus* (28 U.S.C. §2241) by pro se Petitioner Marcos Zavala. Petitioner is an immigration detainee in the custody of the Department of Homeland Security/Bureau of Immigration and Customs Enforcement (DHS/ICE). He is presently detained at the LaSalle Detention Center in Trout, Louisiana. Petitioner challenges his order of removal and detention on the grounds that he is a natural born United States citizen.

This matter has been referred to the undersigned for review, report, and recommendation in accordance with the provisions of 28 U.S.C. §636 and the standing orders of the Court.

***Background***

Petitioner alleges that he was born in the United States in 1976. He resided in and attended school in Texas. After graduating high school, he worked for eleven years and paid taxes for all of those years. He and his ex-wife had a child together - a son, over whom Petitioner was awarded full custody. Petitioner claims that his ex-wife, in retaliation for being deprived of

custody, contacted ICE and reported Petitioner as an illegal alien.

#### ***Law***

On May 11, 2005, Congress passed the REAL ID Act, Pub.L. No. 109-13, 119 Stat. 231, and amended the jurisdictional provisions of the Immigration and Nationality Act. ***The Act divested district courts of jurisdiction over removal orders and designated the courts of appeals as the sole forums for such challenges via petitions for review.*** 8 U.S.C. § 1252(a)(5); see also Rosales v. Bureau of Immigration & Customs Enforcement, 426 F.3d 733, 735-36 (5th Cir.2005), cert. denied, 546 U.S. 1106, 126 S.Ct. 1055, 163 L.Ed.2d 882 (2006). Because Petitioner claims that he is a United States citizen and challenges his order of removal, this Court lacks jurisdiction over his claim. Petitioner must seek review of the order in the appropriate court of appeals.

#### ***Recommendation***

Therefore, **IT IS RECOMMENDED** that the Petition for Writ of Habeas Corpus be **DISMISSED FOR LACK OF JURISDICTION**.

#### ***Objections***

Under the provisions of 28 U.S.C. § 636(b)(1)(C) and Fed.R.Civ.P. 72(b), the parties have fourteen (14) calendar days from service of this Report and Recommendation to file specific, written objections with the clerk of court. No other briefs or responses (such as supplemental objections, reply briefs etc.) may be filed. Providing a courtesy copy of the objection to the

magistrate judge is neither required nor encouraged. Timely objections will be considered by the district judge before he makes his final ruling.

FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN FOURTEEN (14) CALENDAR DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY, EXCEPT UPON GROUNDS OF PLAIN ERROR, FROM ATTACKING ON APPEAL THE UN-OBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT JUDGE.

Thus done and signed at Alexandria, Louisiana, this 24<sup>th</sup> day of October, 2013.

  
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JAMES D. KIRK  
UNITED STATES MAGISTRATE JUDGE